

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
EL DORADO DIVISION**

DELOIS PIPPEN, as Special Administratrix of  
the Estate of Lucille G. Billings, deceased, and  
on behalf of the wrongful death beneficiaries  
of Lucille G. Billings; and  
On Behalf of All Others Similarly Situated

PLAINTIFF

vs.

CASE NO.: 1:16-cv-01069-SOH

PINEWOOD HEALTH AND REHABILITATION, LLC;  
Arkansas SNF Operations Acquisition, LLC;  
Arkansas Nursing Home Acquisition, LLC;  
CSCV Holdings, LLC; Capital Funding Group, Inc.;  
SLC Professionals, LLC; SLC Professionals AR7, LLC;  
SLC Professionals Holdings, LLC; SLC Operations Holdings, LLC;  
SLC Operations, LLC; SLC Administrative Services of Arkansas, LLC;  
Senior Living Communities of Arkansas, LLC; Addit, LLC;  
SLC Operations Master Tenant, LLC; SLC Properties, LLC;  
1101 Waterwell Road, LLC; CSCV Arkansas Realty, LLC;  
Alan Zuccari; Brian Reynolds; John W. Dwyer; Daniel Baird;  
Troy Morris, in his capacity as Administrator of  
Pinewood Health and Rehabilitation, LLC;  
Emily Greene, in her capacity as Administrator of  
Pinewood Health and Rehabilitation, LLC;  
Carol Hoelscher, in her capacity as Administrator of  
Pinewood Health and Rehabilitation, LLC; and  
Barney L. Pierce, in his capacity as Administrator of  
Pinewood Health and Rehabilitation, LLC

DEFENDANTS

**MOTION TO REMAND**

COMES NOW, the Plaintiffs, and hereby moves this Court to remand this case back to the  
Circuit Court of Ashley County:

1. Removal to federal court is only permissible in cases in which the district courts of the United States have original jurisdiction. 28 U.S.C. § 1441(a).
2. The removing Defendants in this case allege that this Court has jurisdiction based upon minimal diversity of citizenship for cases involving class actions pursuant to portions of the Class Action Fairness Act, 28 U.S.C. § 1332(d).

3. Complete diversity of citizenship is lacking because the Plaintiffs and Defendants Troy Morris, Emily Greene, and Carol Hoelscher are all citizens of the State of Arkansas. Furthermore, actions removable based solely upon diversity of jurisdiction “may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2).

4. Defendants Troy Morris, Emily Greene, Carol Hoelscher, and Barney Pierce were properly joined as defendants in this matter and Plaintiff has a reasonable basis in fact and law supporting her claims against Troy Morris, Emily Greene, Carol Hoelscher, and Barney Pierce, making their joinder not fraudulent. *See Filla v. Norfolk So. Ry. Co.*, 336 F.3d 806 (8th Cir. 2003).

5. The expanded jurisdiction of federal courts for cases involving class actions is not applicable in this case, because the case is subject to the “local controversy exception” under which a district court “shall decline to exercise jurisdiction.” 28 U.S.C. § 1332(d)(4).

6. Alternatively, the Court has discretion to decline to exercise jurisdiction under the Class Action Fairness Act because the State of Arkansas has a substantial interest in resolving this dispute. 28 U.S.C. § 1332(d)(3).

7. A Brief in Support of Motion to Remand is being filed along with this motion and more fully articulates this Court’s lack of subject matter jurisdiction and Plaintiff’s entitlement to an order remanding this case to Arkansas circuit court. Plaintiffs hereby incorporate that brief with this motion.

WHEREFORE, Plaintiffs respectfully request that the Court remand this case to Ashley County Circuit Court and order the Defendants to pay all just costs and actual expenses, including attorneys’ fees, incurred as a result of the removal of this action to this Court, *see* 28 U.S.C. § 1447(c).

Respectfully submitted,

Delois Pippen, as Special Administratrix of the Estate of Lucille G. Billings, deceased, and on behalf of the wrongful death beneficiaries of Lucile G. Billings and on behalf of all other similarly situated

/s/ Robert W. Francis

By:

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### **CERTIFICATE OF SERVICE**

I hereby certify that on August 17, 2016, the foregoing was electronically filed with the court which shall sent notification of such filing to the following:

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/s/ Robert W. Francis

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